



United States
Department of
Agriculture

Forest
Service

Sawtooth National Forest
Minidoka Ranger District

7B/003/016
cc: Lynn
3650 South Overland Ave.
Burley, ID. 83318-3242
208-678-0430
Fax: 208-677-4878

File Code: 2810

Date: April 2, 2007

Jerry Cates
Dove Creek Quarries, LLC
HC 63
Box 0001
Park Valley, UT 84329
CERTIFIED MAIL/RETURN RECEIPT REQUESTED

RECEIVED

APR 05 2007

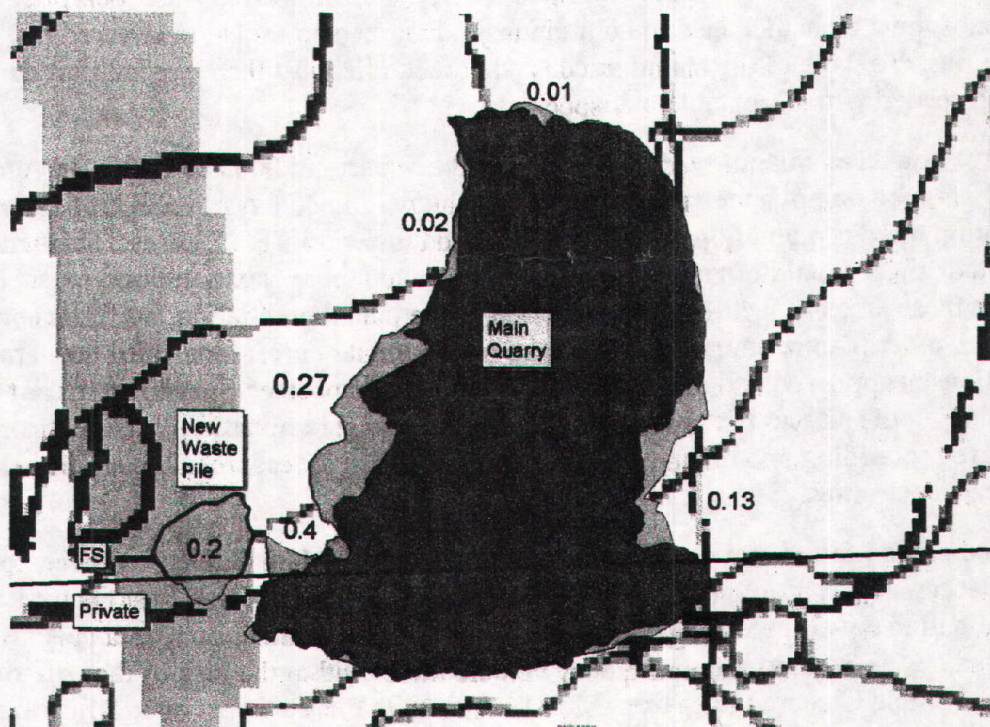
Div. of Oil, Gas & Mining

NOTICE OF NONCOMPLIANCE

Dear Mr. Cates:

This letter is to document and give you written notice that your operations at the Dove Creek Quarry of the Raft River Division, Sawtooth National Forest are in noncompliance with Federal Regulations in 36CFR228A, requirements for environmental protection. This letter is based on an inspection of the site on March 26, 2007.

The inspector found that at least 0.67 acres of new unauthorized quarry and waste rock expansion and disturbance has been created on National Forest lands at the Main Quarry. The inspector found that of the 0.67 acres, 0.2 acres of a new unauthorized waste pile were on National Forest lands.



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The inspector found several pieces of equipment that appeared to have been left on site over the winter in noncompliance with the mitigation developed during the NEPA process and incorporated into the Plan of Operations/Reclamation Plan for this project approved on February 27, 2006. The Reclamation Plan states that:

"No equipment left on site at the close of yearly operations to limit the possibility of fuel or hydraulic fluid leaks from unattended equipment."

Additionally, the American Model 35 Trackhoe was found to have leaked hydraulic fluid onto the ground beneath it.

Because this new disturbance is outside of the approved plan of operations and equipment was left on site over the winter, you are in noncompliance with 36CFR228.5(a) Subpart(a):

"Operations shall be conducted in accordance with the approved plan of operations, except as provided in paragraph (b) of this section and in 228.4 (a), (b), and (e)."

Because of the inoperable and leaking equipment left on site, you are in noncompliance with 36CFR228.9:

"During all operations operator shall maintain his structures, equipment, and other facilities in a safe, neat and workmanlike manner."

Within 30 days of receipt of this letter you must remove all inoperable or leaking equipment from National Forest lands including the American Model 35 Trackhoe, the blue dump truck, the front end loader, and the burned out pickup truck. All fuel and hydraulic fluid leaks associated with this equipment must be cleaned up and disposed of following all applicable laws and regulations. Within 30 days of receipt of this letter, the unauthorized waste rock pile on National Forest lands must be hauled back onto previously disturbed areas that are covered by your plan of operations. The site of the unauthorized waste rock pile must then be recontoured to original grade and seeded with acceptable plant species.

There have now been unauthorized expansions of the quarry in 2005 and 2006. In order to bring this site back into compliance, we are requesting that within 30 days of receipt of this letter that a modification to your plan of operations be submitted under 36 CFR 228.4(e). This modification must include these unauthorized areas of disturbance and the reclamation bond must be revised to include these areas as well. Upon submission of the plan modification, no further activity will be allowed, other than reclamation and cleanup on National Forest lands, until the amended plan of operations is approved and a revised reclamation bond is posted. Specialists from this office will be visiting the site within the next 30 days to make a determination if reclamation and cleanup are proceeding and to determine the extent of possible resource damage from unauthorized activities.

The inspector also found that the road at the south end of the Main Quarry had been opened up allowing access to the road that goes to the Vertical Cloud and Sunshine East Quarries. As part of the mitigation developed during NEPA and as part of the reclamation plan a gate was to be constructed on this road to limit non-quarry vehicle travel within the area of the off-road motorized vehicle Closure Order from May 1 – June 30. Please contact our office to and we can assist you in designing an appropriate gate to limit public access during the Closure Order period.

This decision is appealable in accordance with Secretary of Agriculture Appeal Regulation 36CFR251, Subpart C. A notice of appeal must be filed with the Forest Supervisor, Sawtooth National Forest, 2647 Kimberly Road East, Twin Falls, Idaho, 83301-7976 within 45 days of the date of this decision with a copy simultaneously sent to the District Ranger, Minidoka District, Sawtooth National Forest, 3650 South Overland Avenue, Burley, Idaho, 83318. The notice of appeal must also include the information described in 36CFR251.90(b). There are eight items listed that the appellant must address.

We are willing to meet with you to discuss any concerns or issues related to this decision. Our telephone number is (208) 678-0430.

If you have any questions or comments, please contact Steve Flock, Minerals Management Specialist, at the above address or telephone number.

Sincerely,



SCOTT C. NANNENGA
Minidoka District Ranger

cc. Lynn Kunzler
Utah Division of Oil, Gas and Mining
P.O. Box 145801
Salt Lake City, UT 84114-5801